

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KATELYN HANKS,

Plaintiff,

VS.

**TAWEPORN LLC, d/b/a WAI WAI
KITCHEN, K&B LEMMON TEXAS,
LTD., and W.W. WILLINGHAM III,
TRUSTEE OF THE W.W.
WILLINGHAM III TRUST**

Defendants.

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CIVIL ACTION NO. 3:18-cv-02314-D

**DEFENDANT K & B LEMMON TEXAS, LTD.
AND W.W. WILLINGHAM III, TRUSTEE'S ANSWER**

TO THE HONORABLE COURT:

Defendants K & B Lemmon Texas, Ltd. and W.W. Willingham III, in his trustee capacity (“Defendants”) answer Plaintiff’s Complaint, as follows:

JURISDICTION

1. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, but do not contest federal question jurisdiction.

PARTIES

2. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, but do not contest Plaintiff’s residency.

3. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, but do not contest Plaintiff’s allegations therein.

4. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, but do not contest Plaintiff’s allegations therein.

5. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, but do not contest Plaintiff's allegations therein.

6. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

7. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

8. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

9. Admit.

10. Admit.

11. Admit.

12. Admit.

FACTUAL ALLEGATIONS

13. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

14. Deny.

15. Admit.

16. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

17. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

18. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

19. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

20. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

COUNT 1

VIOLATIONS OF THE ADA AND ADAAG

21. Admit.

22. Plaintiff does not set forth a factual allegation or legal contention in this paragraph.
The ADA's Congressional History speaks for itself.

23. Plaintiff does not set forth a factual allegation or legal contention in this paragraph.
The ADA's Congressional History speaks for itself.

24. Plaintiff does not set forth a factual allegation or legal contention in this paragraph.
The ADA speaks for itself.

25. Plaintiff does not set forth a factual allegation or legal contention in this paragraph.
The ADA speaks for itself.

26. Admit.

27. Admit.

28. Plaintiff does not set forth a factual allegation or legal contention in this paragraph.
The ADA regulations speak for themselves.

29. Plaintiff does not set forth a factual allegation or legal contention in this paragraph.
The ADA regulations speak for themselves.

30. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

31. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

32. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

33. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

34. Deny.

35. Deny.

36. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

37. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

38. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

39. Deny.

40. Deny.

41. Deny,

42. Deny.

43. Deny as to at least some of property and improvements.

44. Defendants are without sufficient information or knowledge to form a belief as to the accuracy of the allegations in this paragraph, and therefore deny those allegations.

45. Deny.

46. Deny.

47. Deny.

48. Deny.

49. Deny.

PRAYER

50. Deny.

ADDITIONAL DEFENSES

51. The tenant at the premises that are the subject matter of this lawsuit has knowledge of the facts and circumstances surrounding Plaintiff's claim. Defendant adopts and incorporates herein by reference each and every allegation and defense set forth in any co-Defendant's responsive pleadings.

52. Defendants have not altered or improved some or all of the property since 2010 and are not subject to the 2010 ADA standards.

53. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

54. Plaintiff's claims are barred, in whole or in part, by the doctrine of equitable estoppel.

55. Plaintiff has suffered no actual damages and is not entitled to an award of damages of any kind. Plaintiff has otherwise failed to mitigate any alleged damages from Defendants' purported conduct.

56. Defendants were not the proximate cause of all or some damages that Plaintiff alleges to have suffered.

57. Acts or omissions by third parties were an intervening and/or superseding cause of all or some damages Plaintiff alleges to have suffered.

58. Plaintiff's Complaint fails to state a claim against Defendants upon which relief can

be granted.

59. Plaintiff is not entitled to interest, costs, and/or their attorneys' fees under the law applicable to this proceeding.

WHEREFORE, PREMISES CONSIDERED, Defendants K & B Lemmon Texas, Ltd. and W.W. Willingham III, in his trustee capacity respectfully request that Plaintiff's claims and causes of action be in all things dismissed, that a take nothing judgment be entered in favor of Defendants, that Defendants be awarded their reasonable and necessary attorneys' fees, costs of cost and expenses in defending this claim, and for all such other and further relief, both at law and in equity, to which Defendants may show themselves justly entitled.

Respectfully submitted,

NESBITT, VASSAR & McCOWN, L.L.P.

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By: /s/ Jim McCown
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ATTORNEYS FOR DEFENDANTS K & B
LEMMON TEXAS, LTD. AND W.W.
WILLINGHAM III, IN HIS TRUSTEE CAPACITY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above document was served on all counsel of record by electronic mail through the Court's ECF system on this 21st day of September, 2018

/s/ Jim McCown
James M. McCown